

(B) a denial of an application under section 387j(c) of this title,

any person adversely affected by such regulation or denial may file a petition for judicial review of such regulation or denial with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has their principal place of business.

(2) Requirements

(A) Copy of petition

A copy of the petition filed under paragraph (1) shall be transmitted by the clerk of the court involved to the Secretary.

(B) Record of proceedings

On receipt of a petition under subparagraph (A), the Secretary shall file in the court in which such petition was filed—

- (i) the record of the proceedings on which the regulation or order was based; and
- (ii) a statement of the reasons for the issuance of such a regulation or order.

(C) Definition of record

In this section, the term “record” means—

- (i) all notices and other matter published in the Federal Register with respect to the regulation or order reviewed;
- (ii) all information submitted to the Secretary with respect to such regulation or order;
- (iii) proceedings of any panel or advisory committee with respect to such regulation or order;
- (iv) any hearing held with respect to such regulation or order; and
- (v) any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

(b) Standard of review

Upon the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5 and to grant appropriate relief, including interim relief, as provided for in such chapter. A regulation or denial described in subsection (a) shall be reviewed in accordance with section 706(2)(A) of title 5.

(c) Finality of judgment

The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28.

(d) Other remedies

The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

(e) Regulations and orders must recite basis in record

To facilitate judicial review, a regulation or order issued under section 387f, 387g, 387h, 387i,

387j, or 387p of this title shall contain a statement of the reasons for the issuance of such regulation or order in the record of the proceedings held in connection with its issuance.

(June 25, 1938, ch. 675, §912, as added Pub. L. 111–31, div. A, title I, §101(b)(3), June 22, 2009, 123 Stat. 1819.)

§ 387m. Equal treatment of retail outlets

The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

(June 25, 1938, ch. 675, §913, as added Pub. L. 111–31, div. A, title I, §101(b)(3), June 22, 2009, 123 Stat. 1820.)

§ 387n. Jurisdiction of and coordination with the Federal Trade Commission

(a) Jurisdiction

(1) In general

Except where expressly provided in this subchapter, nothing in this subchapter shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

(2) Enforcement

Any advertising that violates this subchapter or a provision of the regulations referred to in section 387a–1 of this title, is an unfair or deceptive act or practice under section 45(a) of title 15 and shall be considered a violation of a rule promulgated under section 57a of title 15.

(b) Coordination

With respect to the requirements of section 4 of the Federal Cigarette Labeling and Advertising Act [15 U.S.C. 1333] and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 [15 U.S.C. 4402]—

(1) the Chairman of the Federal Trade Commission shall coordinate with the Secretary concerning the enforcement of such Act as such enforcement relates to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco; and

(2) the Secretary shall consult with the Chairman of such Commission in revising the label statements and requirements under such sections.

(June 25, 1938, ch. 675, §914, as added Pub. L. 111–31, div. A, title I, §101(b)(3), June 22, 2009, 123 Stat. 1820.)

REFERENCES IN TEXT

The Federal Cigarette Labeling and Advertising Act, referred to in subsec. (b), is Pub. L. 89–92, July 27, 1965, 79 Stat. 282, which is classified generally to chapter 36 (§1331 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 15 and Tables.

The Comprehensive Smokeless Tobacco Health Education Act of 1986, referred to in subsec. (b), is Pub. L.